



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
60 WESTVIEW STREET, LEXINGTON, MASSACHUSETTS 02173



SDMS DocID 270165

MEMORANDUM

SUBJECT: Request for a One Year Exemption - Action Memorandum  
for the West Bank Asbestos Site, Nashua, NH

FROM: David A. Ferenz, On-Scene Coordinator  
Oil & Hazardous Materials Section *DAF*

TO: Michael R. Deland  
Regional Administrator

THRU: Edward J. Conley, Director  
Environmental Services Division *EJC*

This is to request an exemption from the one-year statutory limitation in order that the removal action may continue at the West Bank Asbestos Site in Nashua, NH. Removal operations at the site were initiated on March 23, 1987; however, the implementation of the Interagency Agreement between the Agency and the Army Corps of Engineers has been delayed. It is estimated that an additional twelve months will be required to complete the removal action.

Enforcement

See attached.

Background

The United States Environmental Protection Agency's Oil & Hazardous Materials Section initiated a removal action in March 1987 by initiating a Interagency Agreement (IAG) with the United States Army Corps of Engineers (USACE) to provide technical assistance, design plans, contractor procurement and site stabilization and construction work for the asbestos sbatement removal action.

USACE prepared engineering plans and solicited contractor bids for site work; however, due to the lateness of the construction season during which bid solicitation was held and the USACE's utilization of the small business set-aside program on this removal action, adequate contractor response to the USACE solicitation process for the asbestos abatement work was not received.

Due to the above mentioned circumstances, USEPA has determined that extension of the IAG with the USACE, at previous funding and obligation levels for contractor bid solicitation, contract award and oversight of site construction and asbestos abatement activities on-site during the 1988 construction season is justified and practicable.

The USACE is resoliciting contractor bids during the month of March 1988 and will open bids for determination of the contract award on April 5, 1988.

#### STATUTORY CRITERIA

Section 104 (c)(1)(A) of CERCLA, as amended by SARA limits Federal emergency response actions to twelve months in duration unless three criteria are met: (1) continued response actions are immediately required to prevent, limit, or mitigate an emergency; (2) there is an immediate risk to public health or welfare or the environment; and (3) such assistance will not otherwise be provided on a timely basis. Section 104(c)(1)(C) also states that the twelve-month limit may be waived if continued response action is otherwise appropriate and consistent with the remedial action to be taken.

The manner in which the West Bank Asbestos Site meets these prescribed criteria for a twelve-month time extension is as follows:

1. Continued response actions are immediately required to mitigate an emergency.

The asbestos stabilization has not been completed within the initial 12 month time period. The threat to the public health and the environment through inhalation or ingestion of asbestos, and potential contamination on-site will continue until the asbestos is properly stabilized. (See prior Action Memo for details).

2. There is an immediate risk to the public health and the environment.

Sampling and analysis at the site indicate the presence of exposed friable asbestos on or near the surface. This constitutes an imminent and substantial threat to the public health and the environment in that asbestos from the site can become airborne and transported. Residents in the area are exposed to the asbestos due to proximity to the site.

A health advisory issued to the Region, on May 16, 1986 by the Agency for Toxic Substances and Disease Registry (ATSDR) states that this situation represents a public health risk and a potential chronic public health hazard to persons living on or around the site.

3. Assistance will not otherwise be provided on a timely basis.

The owner/generators of asbestos on-site have declined to accept responsibility to conduct the removal action.

The State of New Hampshire's Department of Environmental Services has declined to fund and/or perform the removal action.

Although the USACE has agreed to procure a contractor and oversee the site work, the only available funding for this removal action is thru the EPA.

Site activities are scheduled to be completed by late summer 1988.

4. Continued response action is otherwise appropriate and consistent with the remedial action to be taken.

At present no remedial actions are planned; however, because the current removal actions are immediately necessary they would be consistent with any future remedial actions.

PROPOSED PROJECT COSTS

The stabilization of exposed asbestos on-site by covering with thirty inches (30") of material or removal and proper disposal are the anticipated response actions. These actions are consistent with those proposed in the previously approved Action Memorandum, and no additional funding is required at this time.

REGIONAL ADMINISTRATOR RECOMMENDATION

Conditions at West Bank Asbestos Site meet the NCP Section 300.65 criteria for a removal action, and also the CERCLA Section 104 (c) (as amended by SARA) requirements for a twelve-month time exemption. Therefore, I recommend your approval of this removal request.

Approve: Paul Keough, Admin Date: 4-14-88

Disapprove: \_\_\_\_\_ Date: \_\_\_\_\_